

Remarks

The applicants respectfully traverse the requirement with respect to claims 19-27, 62-83, 84-90, and 91-96. Pursuant to MPEP §803, a restriction requirement is proper only if: (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the examiner if the restriction is not required. Without addressing the issue of whether the species are patentably distinct from each other, the applicant respectfully submits that a search and examination of the complete set of claims would not impose a serious burden on the examiner. Each of the species are iterated as set forth in the specification and are classified in the same class and subclass. The applicant submits that examination of a set of claims, including at least one generic claim, directed to the five species would not place a serious burden upon the examiner if restriction is not required.

M.P.E.P. 802.01 states that the distinctness required for restriction means that the subjects "ARE PATENTABLE (novel and unobvious) OVER EACH OTHER" (emphasis with capital letters in original). (See also M.P.E.P. 808.02, which states that where "related inventions are not patentably distinct as claimed, restriction ... is never proper." The Patent Office has also stated that "it is imperative the requirement should never be made where related inventions as claimed are not distinct." M.P.E.P. 806.)

These positions are necessary to entry of the restriction requirement by the Office and may be relied upon by the applicant during examination of this and continuing applications, unless the restriction requirement is withdrawn. If the examiner is not taking these positions, then it is submitted that the restriction requirement should be withdrawn upon reconsideration.

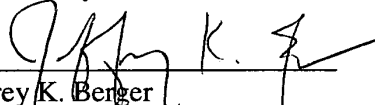
Applicants traverse the examiner's assertion that there is no generic claim present in the application. Applicant asserts at least claims 91-96 are generic and can be read on each of claims 19-27, 62-83, 84-90 and all of the embodiments of the invention in claims 19-27, 62-83, 84-90 and particularly can be read on each of the figures except FIGs. 4', 8B and 8D-8F. Applicant asserts that any alleged difference in the designation "insulating panels for covering windows" and "cellular panel for a window covering" are immaterial with respect to the claimed method.

If the Examiner makes the restriction requirement final, applicant provisionally elects to prosecute claims 91-96. Because the claims 91-96 are generic with respect to claims 19-27, 62-83, 84-90 applicant asserts that these claims too should be examined and prosecuted as members of the elected Group.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

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Respectfully submitted,

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